

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AGUSTIN PENA-SANCHEZ,

Plaintiff,

-against-

NEW YORK CITY, *et al.*,

Defendants.

22-CV-4942 (UA)

ORDER GRANTING IFP
APPLICATION IN PRISONER CASE

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff's application for leave to proceed without prepayment of fees is granted. A prisoner bringing a civil action is required to pay the full \$350 filing fee even when proceeding *in forma pauperis* (IFP), that is, without prepayment of fees. *See* 28 U.S.C. § 1915(b)(1). The Court must collect, when funds exist in a prisoner's account, an initial partial filing fee¹ plus monthly payments. The agency having custody of the prisoner shall forward payments from the prisoner's account to the Clerk of Court each time the amount in the account exceeds \$10, until the filing fees are paid. 28 U.S.C. § 1915(b)(2); *see also* In the Matter of the Prison Litigation Reform Act, Second Amended Standing Order, M10-468 (S.D.N.Y. May 26, 2010) (requiring agencies to calculate and remit the statutory fees for litigants in their custody).

Plaintiff has executed a prisoner authorization that authorizes the agency having custody of Plaintiff, or any agency to which Plaintiff is transferred, to send a certified copy of Plaintiff's prison trust fund account for the past six months to this Court. The prisoner authorization further authorizes the agency to calculate the amounts specified by 28 U.S.C. § 1915, to deduct those

¹ The initial partial filing fee is 20 percent of the greater of – (A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(b)(1)(A).

amounts from Plaintiff's prison trust fund account (or institutional equivalent), and to disburse those amounts to this Court.

CONCLUSION

The Clerk of Court is directed to send a copy of this order and the prisoner authorization to the agency having custody of Plaintiff. That agency is directed to forward copies of Plaintiff's prison trust fund account for the past six months and to disburse the payments required under 28 U.S.C. § 1915 to the United States District Court for the Southern District of New York and to include the above docket number on the disbursement before sending it to the Court. If Plaintiff is transferred to another facility, the current facility shall provide a copy of this order to the facility to which Plaintiff is transferred.

Finally, it is Plaintiff's obligation to promptly submit a written notification to the Court if Plaintiff's address changes, and the Court may dismiss the action if Plaintiff fails to do so.

SO ORDERED.

Dated: June 13, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Pena Sanchez
(full name of the plaintiff/petitioner)

CV

(Provide docket number, if available; if filing this with your complaint, you will not yet have a docket number.)

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() ()

-against-

Department of Corrections nyc
& New York City
(full name(s) of the defendant(s)/respondent(s))

PRISONER AUTHORIZATION

By signing below, I acknowledge that:

- (1) because I filed this action as a prisoner,¹ I am required by statute (28 U.S.C. § 1915) to pay the full filing fees for this case, even if I am granted the right to proceed *in forma pauperis* (IFP), that is, without prepayment of fees;
- (2) the full \$350 filing fee will be deducted in installments from my prison account, even if my case is dismissed or I voluntarily withdraw it.

I authorize the agency holding me in custody to:

- (1) send a certified copy of my prison trust fund account statement for the past six months (from my current institution or any institution in which I was incarcerated during the past six months);
- (2) calculate the amounts specified by 28 U.S.C. § 1915(b), deduct those amounts from my prison trust fund, and disburse those amounts to the Court.

This authorization applies to any agency into whose custody I may be transferred and to any other district court to which my case may be transferred.

05-25-22
Date

[Signature]
Signature

Sanchez
Name (Last, First, MI)

Agustin Pena 441901062
Prison Identification #

1818 Hazen St
Address

East Elmhurst NY
City State

11370
Zip Code

¹ A "prisoner" is "any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions of parole, probation, pretrial release, or diversionary program." 28 U.S.C. § 1915(h).